

§ 3200.7 What regulations apply to geothermal leases issued before August 8, 2005?

(a) *General applicability.* (1) Leases issued before August 8, 2005, are subject to this part and part 3280, except that such leases are subject to the BLM regulations in effect on August 8, 2005 (43 CFR parts 3200 and 3280 (2004)), with regard to regulatory provisions relating to royalties, minimum royalties, rentals, primary term and lease extensions, diligence and annual work requirements, and renewals.

(2) The lessee of a lease issued before August 8, 2005, may elect to be subject to all of the regulations in this part and part 3280, without regard to the exceptions in paragraph (a)(1) of this section. Such an election must occur no later than December 1, 2008. Any such election as it pertains to lease terms relating to royalty rates must be made under the royalty rate conversion provisions of subpart 3212. A lessee must obtain a royalty conversion under subpart 3212 to make an election under this paragraph effective.

(b) *Royalty rate conversion and production incentives.* The lessee of a lease issued before August 8, 2005, may:

(1) Choose to convert lease terms relating to royalty rates under subpart 3212; or

(2) If it does not convert lease terms relating to royalty rates, apply for a production incentive under subpart 3212 (if eligible under that subpart).

(c) *Two year extension.* The lessee of a lease issued before August 8, 2005, may apply to extend a lease that was within 2 years of the end of its term on August 8, 2005, for up to 2 years to allow achievement of production under the lease or to allow the lease to be included in a producing unit.

§ 3200.8 What regulations apply to leases issued in response to applications pending on August 8, 2005?

(a) Any leases issued in response to applications that were pending on August 8, 2005, are subject to this part and part 3280, except that such leases are subject to the BLM regulations in effect on August 8, 2005 (43 CFR parts 3200 and 3280 (2004)), with regard to regulatory provisions relating to royalties, minimum royalties, rentals, pri-

mary term and lease extensions, diligence and annual work requirements, and renewals.

(b)(1) The lessee of a lease issued pursuant to an application that was pending on August 8, 2005, may elect to be subject to all of the regulations in this part and part 3280, without regard to the exceptions in paragraph (a) of this section.

(2) For leases issued on or after August 8, 2005, and before June 1, 2007, an election under paragraph (b)(1) of this section must occur no later than December 1, 2008.

(3) For leases issued on or after June 1, 2007, the lease applicant must make its election under paragraph (b)(1) of this section and notify BLM before the lease is issued.

Subpart 3201—Available Lands**§ 3201.10 What lands are available for geothermal leasing?**

(a) BLM may issue leases on:

(1) Lands administered by the Department of the Interior, including public and acquired lands not withdrawn from such use;

(2) Lands administered by the Department of Agriculture with its concurrence;

(3) Lands conveyed by the United States where the geothermal resources were reserved to the United States; and

(4) Lands subject to Section 24 of the Federal Power Act, as amended (16 U.S.C. 818), with the concurrence of the Secretary of Energy.

(b) If your activities under your lease or permit might adversely affect a significant thermal feature of a National Park System unit, BLM will include stipulations to protect this thermal feature in your lease or permit. These stipulations will be added, if necessary, when your lease or permit is issued, extended, renewed or modified.

§ 3201.11 What lands are not available for geothermal leasing?

BLM will not issue leases for:

(a) Lands where the Secretary has determined that issuing the lease would cause unnecessary or undue degradation of public lands and resources;

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(b) Lands contained within a unit of the National Park System, or otherwise administered by the National Park Service;

(c) Lands within a National Recreation Area;

(d) Lands where the Secretary determines after notice and comment that geothermal operations, including exploration, development or utilization of lands, are reasonably likely to result in a significant adverse effect on a significant thermal feature within a unit of the National Park System;

(e) Fish hatcheries or wildlife management areas administered by the Secretary;

(f) Indian trust or restricted lands within or outside the boundaries of Indian reservations;

(g) The Island Park Geothermal Area; and

(h) Lands where Section 43 of the Mineral Leasing Act (30 U.S.C. 226-3) prohibits geothermal leasing, including:

(1) Wilderness areas or wilderness study areas administered by BLM or other surface management agencies;

(2) Lands designated by Congress as wilderness study areas, except where the statute designating the study area specifically allows leasing to continue; and

(3) Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document 96-119), unless such lands are allocated to uses other than wilderness by a land and resource management plan or are released to uses other than wilderness by an Act of Congress.

Subpart 3202—Lessee Qualifications

§ 3202.10 Who may hold a geothermal lease?

You may hold a geothermal lease if you are:

(a) A United States citizen who is at least 18 years old;

(b) An association of United States citizens, including a partnership;

(c) A corporation organized under the laws of the United States, any state or the District of Columbia; or

(d) A domestic governmental unit.

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§ 3202.11 Must I prove I am qualified to hold a lease when filing an application to lease?

You do not need to submit proof that you are qualified to hold a lease under § 3202.10 at the time you submit an application to lease, but BLM may ask you in writing for information about your qualifications at any time. You must submit the additional information to BLM within 30 days after you receive the request.

§ 3202.12 Are other persons allowed to act on my behalf to file an application to lease?

Another person may act on your behalf to file an application to lease. The person acting for you must be qualified to hold a lease under § 3202.10, and must do the following:

(a) Sign the application;

(b) State his or her title;

(c) Identify you as the person he or she is acting for; and

(d) Provide written proof of his or her qualifications and authority to take such action, if BLM requests it.

§ 3202.13 What happens if the applicant dies before the lease is issued?

If the applicant dies before the lease is issued, BLM will issue the lease to either the administrator or executor of the estate or the heirs. If the heirs are minors, BLM will issue the lease to either a legal guardian or trustee, provided that the legal guardian or trustee is qualified to hold a lease under § 3202.10.

Subpart 3203—Competitive Leasing

§ 3203.5 What is the general process for obtaining a geothermal lease?

(a) The competitive geothermal leasing process consists of the following steps:

(1)(i) Entities interested in geothermal development nominate lands by submitting to BLM descriptions of lands they seek to be included in a lease sale; or

(ii) BLM may include land in a competitive lease sale on its own initiative.